

EXHIBIT D

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NETFLIX, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNILOC 2017 LLC,
Plaintiff,
v.
NETFLIX, INC.,
Defendant.

**LEAD CONSOLIDATED CASE:
NO. SACV18-02055-GW (DFMx)**

**DEFENDANT NETFLIX, INC.'S
OPPOSITION TO UNILOC
2017 LLC'S MOTION TO
ENFORCE A SUPPOSED
SETTLEMENT AGREEMENT**

[REDACTED - PUBLIC VERSION]

Date: January 4, 2021
Time: 8:30 a.m.
Judge: Honorable George H. Wu
Room: 9D

NO. SACV18-02055-GW (DFMx)

OPP. TO MOT. TO
ENFORCE SETTLEMENT

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1 [REDACTED]. Netflix simply made the proposal because
 2 the parties had been spinning their wheels for months and getting nowhere [REDACTED]
 3 [REDACTED], a problem compounded by Uniloc refusal to explain
 4 its relationship with Fortress. Bernstein Decl. ¶ 20. Further, during one of the prior
 5 phone calls, [REDACTED]
 6 [REDACTED]. *Id.*

7 The parties had a follow-up call with Judge Gandhi on October 26. The parties
 8 discussed [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED] Bernstein Decl. ¶ 21.
 13 After a November 2 call with Judge Gandhi, it was clear to Netflix that the mediation
 14 was over without having resolved the parties' disputes. *Id.* ¶ 22.

15 During a phone call on November 16, Ms. Day informed Mr. Bernstein that
 16 Uniloc would be moving to enforce the settlement agreement. Netflix responded by
 17 pointing out the motion was baseless. *Id.* ¶ 23, Bernstein Ex. 11.

18 **C. Fortress Appears to Control Uniloc**

19 Netflix does not fully understand the Fortress–Uniloc relationship because
 20 Fortress and Uniloc have striven to conceal it. Throughout the case, Uniloc refused
 21 to substantively address the Fortress relationship in interrogatory responses. Netflix
 22 subpoenaed Fortress, but Fortress, represented by the same law firm that represents
 23 Uniloc here, refused to produce any discovery whatsoever, forcing Netflix to move
 24 to compel in New York. During the settlement negotiations, Uniloc again refused to
 25 explain the relationship between Fortress and Uniloc.

26 Despite these efforts, public information strongly suggests that Uniloc is
 27 controlled by Fortress. For example, the assignment agreement by which Uniloc
 28 2017 LLC acquired all of the patents-in-suit was executed by its President,

1 Constantine M. Dakolias. Bernstein Ex. 12. Mr. Dakolias is a Fortress executive.
2 According to Fortress' website, "Mr. Dakolias is the Co-Chief Investment Officer of
3 the Fortress Credit Funds business. Mr. Dakolias also serves on Fortress's
4 Management and Operating Committees." Bernstein Ex. 13. Just last week on
5 December 8, 2020, Uniloc filed a Statement of Information with the California
6 Secretary of State listing two "Managers or Members": Mr. Dakolias and David N.
7 Brooks. Bernstein Ex. 14. Mr. Brooks is General Counsel of Fortress Investment
8 Group LLC and, like Mr. Dakolias, serves on Fortress' Management Committee.
9 Bernstein Ex. 15. Uniloc's Statement of Information filing also lists its address as
10 1345 Avenue of the Americas, 46th Fl, New York, NY 10105—the address of
11 Fortress' New York Offices. Bernstein Ex. 16.

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
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DATED: December 14, 2020

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By: /s/ Patrick J. McKeever
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